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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
LAKE SPOKANE ENVIRONMENTAL
ASSOCIATION AND JAMES A. SCHASRE,

Appellants,

v.

STATE OF WASHINGTON, DEPARTMENT
OF ECOLOGY AND LIBERTY LAKE
SEWER DISTRICT NO. 1,

Respondents.

PCHB No. 79-4

ORDER DISMISSING APPEAL

This matter, the appeal from an approval by Department of Ecology of an addendum to the Liberty Lake Sewerage Facilities Plan by the Liberty Lake Sewer District No. 1, came before the Pollution Control Hearings Board, Dave J. Mooney, Chris Smith, and David Akana (presiding) on May 14, 1979 in Spokane.

Appellants were represented by their attorney, Carl Maxey; respondent Department of Ecology ("department") was represented by Charles W. Lean, Assistant Attorney General; respondent Sewer District was represented

DA/LB

1 by its attorney, Roy Koegen.

2 Appellant filed a motion to amend its Notice of Appeal and a motion,
3 in essence, requesting this Board to make certain preliminary rulings
4 regarding its jurisdiction.

5 With regard to jurisdiction to review orders and decisions of the
6 department, this Board's jurisdiction is set forth in chapter 43.21B RCW.
7 E.g. RCW 43.21B.010; .110; .230. With regard to jurisdiction to review
8 matters raised under the State Environmental Policy Act (SEPA),
9 chapter 43.21C RCW, this Board's jurisdiction to review the department's
10 SEPA compliance with respect to its orders or decisions flows from
11 chapter 43.21B RCW and RCW 43.21C.060. (See also WAC 197-10-390(1)).
12 In this case, the department's concurrence with the declaration of
13 non-significance (DNS) made by the lead agency, the Sewer District, is
14 reviewable, at a minimum, as to the subject matter for which the
15 department is an agency with jurisdiction. If the department's
16 concurrence with the DNS was incorrect, then the department's order
17 or decision could be set aside. Any evidence offered to show that the
18 DNS made by the lead agency is incorrect, which evidence goes beyond
19 that properly considered by the department as an agency with jurisdiction,
20 is not relevant here. Appellants' desire to appeal the lead agency's
21 DNS should be addressed to another forum.

22 After this Board made the above ruling, appellants indicated
23 their desire to appeal the ruling. Appellants thereafter withdrew the
24 remaining portions of their appeal and offered no evidence. Under the
25 circumstances, appellants' motion to amend their appeal need not be
26 addressed.


27 ORDER DISMISSING APPEAL


1 Having failed to show that the department's decision was incorrect,
2 appellants' appeal should be and is dismissed.

3 DATED this 15TH day of May, 1979.

4 POLLUTION CONTROL HEARINGS BOARD

5 
6 DAVE J. MOONEY, Chairman

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8 CHRIS SMITH, Member

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10 DAVID AKANA, Member
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26 ORDER DISMISSING APPEAL

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LARENE' BARLIN
POLLUTION CONTROL HEARINGS BOARD